

Strawman #2

This document is for purposes of discussion and does not represent a formal position or proposal of the Maine Department of Environmental Protection.

This discussion "strawman" presumes a change in the regulation of discharges of blackwater and graywater from vessels, particularly the largest passenger vessels. This is based on: (1) a recognition that Maine currently has unacceptable ambient levels for bacteria in some coastal waters, although other large individual dischargers are already licensed and monitored, and (2) the largest passenger vessels individually pose the greater potential risk to sensitive coastal areas. This document also suggests some minor changes in relation to other types of discharges at this time, as explained below.

The Department encourages members of the Vessel Discharge Group to suggestion other options that they consider protective, reasonable, and viable.

Acronyms/terms

"Large commercial passenger vessels" = overnight accommodations for 250 or more passengers (using Alaska definition).

"Small commercial passenger vessels"= overnight accommodations for 50-249 passengers (using Alaska definition).

DEP = Maine Department of Environmental Protection

EPA = U.S. Environmental Protection Agency

PL = Public Law

NDZ = Federal No Discharge Zone (prohibits blackwater discharges from all type/sizes of vessels)

"Larger passenger vessel"= not yet defined.

* = Where multiple options are mentioned, (*) indicates the staff thinking at this point in time.

BLACKWATER (sewage)	
NDZ areas	
<p><u>Recommendation</u> Amend Chapter 655 as necessary to allow DEP to apply for a NDZ for Casco Bay by January 15, 2005, and apply for NDZs for the remaining DEP recommended areas by 2007. Reason: The focus on Casco Bay initially would allow for identification of any implementation problems, necessary improvements in educational materials, etc. The delay in designation outside Casco Bay could be used to provide public education concerning the coming designation in other areas.</p>	
Outside NDZ areas	
<p><u>Recommendation</u></p> <ul style="list-style-type: none"> • Look at the range of effluent quantity and quality that vessels may discharge and then model that information for some areas. It is likely that such an exercise would reveal a significant potential for impact from the larger passenger vessels, probably in violation of water quality standards over significant areas of water. • Require annual registration of large and small commercial passenger vessels (as defined in Alaska law), regardless of whether the vessels intend to discharge. Registration should require information such as type of treatment systems (graywater and blackwater), holding capacity, passenger and crew capacity, disposal plan for solid and hazardous waste, etc. • The registration provision should require a fee to support the registration program, as well as provide resources for public education on subjects related to vessel discharges such as registration and licensing requirements, no discharge zones, recommended management measures, potential impacts, etc. • Seek supporting change in federal law to allow NPDES licensing of blackwater discharges from small and large commercial passenger vessels. • Once obtained, recognize that the discharge of sewage into Maine waters without a waste discharge license is currently prohibited by state law (38 MRSA 413). Extend licensing to large commercial passenger vessels that intend to discharge, consistent with existing state law, and small commercial passenger vessels if determined appropriate at that time. Have DEP establish standards in a general permit and/or individual permits, for the large commercial passenger vessels. • Rely upon existing statutory and regulatory standards for purposes of these licenses. • Effluent from large commercial passenger vessels would be required to meet the same effluent standard as is required for other dischargers to marine waters. Currently: SA waters -- no discharge; SB & SC waters--fecal coliform 15 colonies/100 ml monthly average and 50 colonies/100 ml daily maximum). • Require that large commercial passenger vessels report blackwater spills to DEP. 	
<p>Notes:</p> <ul style="list-style-type: none"> • Fees would need to be charged to support administration of these additional licenses. It is unclear whether additional staff would be required at this point. 	
<p>Notes: ICCL voluntary guidelines provide for no discharge within 4 miles from shore; or such other distance as agreed to with authorities having jurisdiction or provided for by local law, except in an emergency, or where geographically limited (exception for advanced wastewater treatment systems). If/when MARPOL Annex IV standard takes effect for U.S. vessels, it would prohibit discharge within 4 miles for certain oceangoing vessels.</p>	

GRAYWATER
NDZ areas
<u>Recommendation.</u> <ul style="list-style-type: none"> • By statutory amendment, prohibit discharges of graywater from the large commercial passenger vessels within Maine waters designated as federal NDZs for blackwater. • Require that these ships report graywater spills to DEP.
Outside NDZ areas (if any)
<ul style="list-style-type: none"> • Recognize that discharges are prohibited without a license under existing state law. Extend licensing to larger passenger vessels that intend to discharge, consistent with existing state law. Have DEP establish standards in a general permit and/or individual permits, for the large commercial passenger vessels first, and the small commercial passenger vessels at a later date if determined appropriate. • Concurrently, seek a clarification in federal law supporting Maine's ability to license the discharges of small and large commercial passenger vessels. • Require that these ships report graywater spills to DEP.
Notes: <ul style="list-style-type: none"> • Option 1 and 2 may create some preemption issues, although not as significant as those involved with regulating blackwater discharges. • Fees would need to be charged to support administration of these additional licenses. It is unclear whether additional staff would be required at this point.
Note: ICCL voluntary guidelines provide for no discharge within 4 miles from shore; or such other distance as agreed to with authorities having jurisdiction or provided for by local law, except in an emergency, or where geographically limited (exception made for advanced wastewater treatment systems).
OIL
<p>No suggested changes to current statute or rule at this time.</p> <p>No discharge of oil contaminated effluent is currently permitted within 3 miles without a license meeting specified statutory criteria. Maine's existing statutory standard is stricter than federal law, and more work needs to be done to provide education and enforcement of the standard. This is unlikely to occur within existing resources.</p>
HAZARDOUS WASTE
<p>No suggested changes to current statute or rule at this time. There is an existing statutory prohibition on discharge to waters of the State, with reporting requirements.</p> <p>Notes: The "Alaska Law" would require that the owner or operator of a commercial passenger vessel provide the department with plan describing policies and procedures for disposing of hazardous waste or substances.</p>
AIR
<p>No suggested changes to current statute or rule at this time. Little room for state regulation, and no proposal available from DEP at this time.</p>
SOLID WASTE
<p>No suggested changes to current statute or rule at this time. There is an existing prohibiting against putting refuse in the water at 38 MRSA 417(3).</p>

Notes: The "Alaska Law" would require that the owner or operator of a commercial passenger vessel provide the department with plan describing policies and procedures for disposing of (non-hazardous) solid waste. This plan may describe procedures for off-loading within state or coastal waters. In Maine, disposal within coastal waters is currently prohibited.

INVASIVE SPECIES

No suggested changes to current statute or rule at this time in this rapidly developing area, except for a recommendation that the membership of Maine's Invasive Species Task Force be expanded to include the Department of Marine Resources. DEP should follow the development of (1) mandatory ballast standards at the federal level, and (2) recognition of invasive species as a pollutant under the Clean Water Act, and propose changes in the future if warranted.